

FILED
IN THE
CLERK OF THE
SUPREME COURT OF THE UNITED STATES

October Term, 1979

NO. 73-626

ALLENEBERG COTTON COMPANY, INC.,
Appellant,

BEN R. FITTMAN,
Appellee.

*On Appeal from the Supreme Court
of the State of Mississippi*

**SUPPLEMENTAL BRIEF OF APPELLANT
CONTAINING NEW CASE AUTHORITY**

JOHN McQUISTON, II
Goodman, Glaser, Strauch & Schneider
1409 Commerce Title Building
Memphis, Tennessee 38103
Attorneys for Appellant

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v.

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Pursuant to Rule 16 of this Court, Appellant Allenberg hereby calls the Court's attention to the Memorandum of Opinion in the companion cases of *Allenberg Cotton Company, Inc. v. R. W. Coleman, et al*, No. EC 73-89-S, and *Cone Mills Corporation v. Wayne Hurdle, et al*, No. WC 73-91-S, decided January 10, 1974, in the United States District Court for the Northern District of Mississippi.

This decision was not available at the time the Jurisdictional Statement was filed on October 9, 1973.

This Memorandum Opinion is directly in point to the issues raised in this appeal and discusses the effect on interstate commerce of the Mississippi Supreme Court's decision in the present case here under consideration in this Court. The Memorandum Opinion follows *Dahnke-Walker*¹ and holds that Allenberg Cotton Company and Cone Mills Corporation may enforce contracts in Mississippi courts for the purchase of cotton in Mississippi without qualifying to do business in Mississippi because such purchases are made in interstate commerce.

Because of the importance of the Memorandum Opinion as authority in this case, and because of its scholarship in reviewing the leading Commerce Clause decisions in agricultural cases, the opinion is set out virtually verbatim in the appendix. Counsel is informed that the Memorandum Opinion will be published, but no citation is available at the present time.

CONCLUSION

For the reasons set forth in Allenberg's Jurisdictional Statement, and based on the additional authority of *Allenberg Cotton Company, Inc. v. Coleman, supra*, appellant prays for summary reversal, or, in the alternative, that probable jurisdiction be noted.

Respectfully submitted,
JOHN McQUISTON, II
Goodman, Glazer, Strauch & Schneider
1400 Commerce Title Building
Memphis, Tennessee

Attorneys for Appellant

¹ *Dahnke-Walker Milling Co. v. Bondurant*, 257 U.S. 282 (1921). This is the central case relied upon by appellant in this appeal. See Jurisdictional Statement, p. 17.